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WORLD MARITIME UNIVERSITY

Malmö, Sweden

**Analysis of ship clearance in The Maldives: Trade
facilitation perspective**

By

**Zoona Ahmed
Maldives**

A dissertation submitted to the World Maritime University in partial
fulfilment of the requirement for the award of the degree of

**MASTER OF SCIENCE
In
MARITIME AFFAIRS
(MARITIME LAW AND POLICY)**

2019

Declaration

I certify that all the material in this dissertation that is not my own work has been identified, and that no material is included for which a degree has previously been conferred on me.

The contents of this dissertation reflect my own personal views, and are not necessarily endorsed by the University.

(Signature): 

(Date): 23rd September 2019

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Supervisor's affiliation: **Maritime Law and Policy**

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Abstract

The Maldives has already developed a roadmap for its work towards a National Single Window project for trade facilitation. While developing the roadmap, huge importance was given to harmonising data and cooperation between stakeholders involved in maritime trade. However, there is less work done on analysing the current situation of the Maldives. This research aims to analyse the documentary requirements currently in place related to ship-clearance by the Maldives Customs Service. The documentary requirements will be compared against the requirements of IMO FAL forms to find the areas where improvement is needed to standardise the forms used in ship clearance. The regulations that administer the private parties in the trade will be analysed. In addition, the process that is followed by different authorities in issuing permits related to trade will be assessed. The research will conclude with recommendations according to the findings. Finally, the challenges faced in conducting the research and suggestions for future research will be advised.

Key Words: Trade facilitation, maritime supply chain, Maldives, ship clearance

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List of Abbreviations

ADB	Asian Development Bank
ETA	Estimated Time of Arrival
FAL Convention	Convention on Facilitation of International Maritime Traffic
ICC	International Chamber of Commerce
IMO	International Maritime Organization
MCS	Maldives Customs Service
MNDS	Ministry of Defense and National Security
MED	Ministry of Economic Development
MFDA	Maldives Food and Drug Authority
MI	Maldives Immigration
MNDF	Maldives National Defense Force
MoFMRA	Ministry of Fisheries Marine Resources and Agriculture
MPL	Maldives Ports Limited
MTA	Maldives of Transport Authority
NSW	National Single Window
NVO	non-vessel operator
NVOCC	Non-vessel operating common carrier
OECD	Organization for Economic Co-operation and Development
RKC	Revised Kyoto Convention
TFA	Trade Facilitation Agreement
UN/CEFACT	United Nations Centre for Trade Facilitation and Electronic Business
UNCTAD	United Nations Conference on Trade and Development
UNECE	United Nations Economic Commission for Europe
WCO	World Customs Organization
WTO	World Trade Organization
SASEC	South Asian Association for Economic Cooperation

List of Legal Instruments Used

Convention on Facilitation of International Maritime Traffic (FAL). 1967 (as amended)

Import Prohibition Act, 4/75

Liquor and Pork Regulation 49/2011

Maldives Customs Act, 2011

Maldives Customs General Regulation as amended

Maldives Customs Service Guidelines on Custom Brokers Training, 2019

Maldives Transport Act 3/2016

Medicine Regulation of the Maldives Food and Drug Authority, 46/2014

Regulation on Exporting, Importing and Re-exporting 34/2012

Regulation on Import of Birds, 2012

Regulations on the import of fog signals and fireworks, 42/2012

The Flora Protection Law 12/2011

Trade Law of Maldives 31/79

UNCTAD MINIMUM STANDARDS FOR SHIPPING AGENTS

WCO guidelines on Customs Brokers, 2017

World Trade Organizations Trade Facilitation Agreement

World Trade Organizations Trade Facilitation Agreement (WTO TFA)

Chapter 1

1.1 Introduction

Trade facilitation is a concept of simplifying and harmonizing the procedures with the associated information exchange in the movement of cargo and their payments. The supply chain is a complex network which involves different public authorities and private parties that deals with the movement of cargo (Buttely, 2003). For this study, the maritime supply chain is referred as the procedures and actors involved in the movement of cargo through sea transport. For vulnerable economies like Small Island Developing nations (SID) which solely depend on the import tax and commodities (derived from maritime trade) for their economies, the governments must adopt measures to minimize the delays and transaction costs in the supply chain. Such measures are essential in reducing transaction costs and minimizing delays, which is imperatives to trade facilitation (UNECE, 2019; UNCTAD, 2005)

Persson and Dubaric-Norling (2009) highlighted the most common challenges faced by developing countries in maritime trade facilitation as poor infrastructure both in the physical roadway and information flow, high transport costs, and poor governance in border agencies. The authors also mentioned that corruption and lack of dialogue between the private and public agencies in trade clusters constituted significant challenges. The results of the study were generated using data from the UNCTAD (United Nations Conference on Trade and Development) and the World Bank Doing Business Index. UNCTAD used trade facilitation indicators such as average time taken to clear and, the average number of documents and signatures required, to compare between the four categories of states based on their income levels: poor, low income, middle income and rich. (SNBT, 2009, pp. 15-17)

The designated authority of maritime administration usually governs the maritime affairs at the national level. However, in the Maldives, maritime affairs are administered by multiple agencies. According to the Transport Act 3/2016, Maldives Transport Authority (MTA) has a mandate for governing both maritime and land transport in the country (AGO, 2019). The Maritime Department of MTA oversees

maritime transport, but the policies are focused mainly on domestic transportation leaving international maritime shipping unregulated (MTA, 2019). These policies related to maritime matters are implemented independently by various agencies of Maldives under separate legal instruments formulated by each agency. Therefore, there are various issues and deficiencies in maritime policy. The main issue is the lack of clear delineation of different roles and duties of the involved agencies. While addressing maritime affairs, this is one reason for the hindrance of trade facilitation. The South Asian Association for Economic Cooperation (SASEC) reported that several legal, organizational and procedural constraints in Maldives hamper trade facilitation (SASEC, 2018).

The country has four leading institutions to address maritime affairs. The Maldives National Defense Force (MNDF), which addresses the security-related issues; - Maldives Immigration (MI) enforces border protection in the movement of people, while the Maldives Customs Service (MCS) mainly acts as an enforcement body in the facilitation of maritime trade and control of the border from illicit activities. Cargo movement into and outside Maldives is through one main port in Maldives Ports Limited (MPL) as it is a small island state economy. More than 90% of the trade in Maldives is handled by MPL (UNCTAD, 2014). Maldives Ports Limited is a commercial entity owned by the government, which manages international shipping and stores and handles the cargo.

1.2 Problem Statement

The maritime supply chain is a very weakly explored area of study in the Maldives among the public as well as governmental institutions. There still exist informal business practices prevalent in the private sector, such as visiting the exporting countries for cash payments (WTO, 2016). Government agencies such as Customs, which process documents of cargo from the maritime supply and logistics chain, often lack capacity in professional maritime knowledge, particularly when analyzing maritime shipping documents from several logistic business practices that operates within the maritime supply chain.

Ranking of trading across borders in the Doing Business Index by the World Bank Group (2018) reported that the Maldives had dropped its ranking from 137 in 2016 to 152 in 2018. According to SASEC (2018), *“cumbersome procedures and delay due to outdated legislation, and paper-based procedures, lack of risk management practices causes high rate of cargo inspection and delay in port procedures in the release of cargo due to inadequate infrastructure and space constraints.”*

Recently MPL has raised concerns over charges by shipping agents from traders. The government-owned company in its press release said that shipping agents had been deceiving businesspeople into collecting fraudulent fees in different names. The press release further stated that MPL had received several complaints from importers and shipping companies (MPL, 2019).

Maldives has developed a National Single Window project with the assistance of the Asian Development Bank (ADB). The road map was designed to guide collaboration between the public and private sectors to build a National Single Window, which will enable government organizations and private parties to operate more efficiently. One of the most prominent parts of the road map focuses on data harmonisation (ADB, 2018). However, there has been no specific study done on the standard of the current documentary requirements involved in maritime transport which are essential for the trade facilitation.

1.3 Research Aims and Objectives

The research aims to study the challenges in ship clearance in the Maldives and what could be improved. To reach this aim the following are the objectives of the research:

1. Analysing documents and procedures followed by MCS in the issuance of ship clearance.
2. Analysing how Maldives customs service regulates private stakeholders related to the maritime trade.
3. Providing recommendations from the international instruments on the subject matter.

1.4 Methodology

The research was carried out based on a qualitative method by using the guidelines, conventions, and recommendations from various international organisations, academic journals and studies published in the research area. The data from the Maldivian Authorities were collected from the websites of the respective authorities and official documents. After gathering the data, they were assessed by comparing the international instruments and standards set by international organisations.

1.5 Limitations

The research while focused on the regulations that administer the stakeholders involved in the ship clearance process initially aimed to analyse the roles of custom brokers and shipping agents in the maritime supply chain. However, with the limited time and lack of response from the shipping agents and, customs brokers, the research was focused only on the regulations set by MCS.

1.6 Scope

This research focuses on the maritime trade in the Maldives in its major port located in Male. It does not take into account the cruise liners or passenger ships arriving into Maldives. Moreover, the research is undertaking mostly on the imports or inbound ships into Maldives.

Chapter 2

Literature Review

2.1 Trade Facilitation and Maritime Supply Chain

Trade facilitation is a concept that looks at the movement of international cargo across borders in an expedited manner along with an efficient control mechanism, ensuring the security of legitimate trade. Trade facilitation is also referred to as a driver for boosting the economy. It also makes the supply chain more efficient by reducing trade transaction costs. Some practitioners have defined trade facilitation as a concept that makes payments in trade easier. The United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT) has defined “trade facilitation as the simplification, standardisation and harmonisation of procedures and associated information flows required to move goods from seller to buyer and to make payment” (SNBT, 2009) .

According to the United Nations Conference on Trade and Development (UNCTAD), the concept of trade facilitation seeks to establish a predictable and transparent environment for cross-border trade transactions. The concept elaborates simple, standardised customs procedures and practices, documentation requirements, cargo and transit operations, and trade and transport arrangements (UNCTAD, 2005). For its part, the Organization for Economic Co-operation and Development (OECD) has referred to policies and measures aimed at easing trade costs through improvement of efficiency at all the stages of international trade (OECD, 2019). Highlighting the importance of trade facilitation, Butterfly (2003) explains that trade facilitation deserves top priority in agenda-setting as it addresses a holistic approach in economy modelling by tackling issues in business, economy and administration, from technical, political and technological angles.

Turning to supply chain, Jasmi and Fernando (2018) define maritime supply chain as “the movement of cargo between two or more substantial ports using maritime transport and the support services involved in the process.” The authors state that the maritime supply chain is an essential service sector for the facilitation of global trade

across borders. Therefore, it is essential to have a clear understanding of the logistics involved in the maritime supply chain that connects traders all over the world. Supply chain management can be explained broadly as the partnerships between multiple parties and their efforts to manage the movement of cargo (Radhika, 2012, pp. 4-5).

Grainger (2011) states that trade facilitation should take a bottom-up approach to understanding the required capabilities in the operational environments of agencies involved in international trade. Hence the institution responsible for or participating in trade policy formulation needs to be exposed to operational insight for effective enforcement of trade facilitation measures. Grainger stresses the importance of the evaluation of operational practices and frustrations in the institution. However, there is limited research on the operations-focused approach to trade facilitation, which is essential for the integration of the supply chain and logistics in international trade. With limited human and infrastructure resources, border agencies must utilize their human resources efficiently in the intelligence department rather than on the field inspecting cargo to ensure facilitated and legitimate trade flow. Moreover, the author explains that border control procedures, especially after the 9/11 terror attacks, must be a collaborative control regime with the business stakeholders involved to see through the whole supply chain.

The smoothness of the trade depends on how several actors within the supply chain perform their roles (Stopford, 2009). Shipping, as a crucial organ to be integrated into global supply chain, requires the maritime logistic service providers to be well implanted into the system (Shang-Min, Potter, Pettit, & Nair, 2014). Therefore, to eliminate delays and issues arising in the supply chain, it is vital to examine the roles of the different actors involved throughout the chain, especially those who are involved in the movement and importation of cargo.

World Bank research shows that countries that have adopted effective measures of trade facilitation have been gaining the benefits of economic development compared to those without these measures (Simeon, Freund, & Pham, 2010).

The rapid growth of seaborne trade has led to the expansion of global supply chains, which has changed the roles of ports. In the early days, the role of ports was limited to providing transshipment related services. However, now ports are defined as efficient distributors of cargo across the supply chain by providing integrated logistics services (Radhika, 2012, p. 8). Also Host et al. (2018) stated that over the last two decades' ports have become an integral part of the supply chain and are serving as logistic centres, influencing both the patterns and processes of the supply chain (Host, Skender, & Mirković, 2018). The approach of port integration into the supply chain includes a series of activities which deals with planning, coordination and control of cargo movements. Panayides & Song (2009) mentioned that the perception of port integration to the supply chain is essential as the productivity and performance of ports have huge impacts on the effectiveness of the whole supply chain. Ports that have integrated their operations into the supply chain enjoys the benefits of unified communication systems, reduced operational costs and punctuality of operations (Radhika, 2012, p. 137).

Calatayud et al. (2016) argue the importance of sharing information using electronic links across the stakeholders to increase the visibility of the maritime supply chain. Woo et al. (2013) stress the benefits of information sharing and highlight that the higher rate of information sharing between the stakeholders in the supply chain and the port will significantly save time and increase flexibility. The use of electronic means to exchange information will assist the ports in accommodating the growing capacity of the industry with a low margin (Woo, Pettit, & Beresford.; Panayides & Song, 2009). According to Carlan et al. (2018), the collaboration between actors in the supply chain can also be advantageous as it shapes the future landscape of the shipping industry.

According to Song and Panayides (2008), "there are three elements of effective information sharing between the port and supply chain actors: (i) using electronic data interchange (EDI) to communicate with port-related stakeholders; (ii) having integrated information technology platforms to share data with such stakeholders; and (iii) having computerized port service systems to coordinate operations with shipping lines and trucking companies".

2.2 Stakeholders Involved in Maritime Supply Chain

The decisions of the different stakeholders, both government and private parties involved in maritime trade, can significantly impact the performance of the maritime supply chain (Carlan, Sys, & Calatayud, 2018).

For instance, border agencies have a duty of controlling the entry and exit of cargo through their borders but also make an essential contribution towards ensuring the smoothness of trade. However, in many countries around the world, customs have a primary objective of collecting revenue in particular for developing countries, these revenues collected by customs remain the most significant contributor to their economies (WCO, 2008). According to Bersin (2012), this could be a reason why some countries avoid implementing trade facilitation as they fear loss of revenue.

It is often the practice of border agencies involved in maritime trade to apply abundant complex regulations. There are separate procedures in shipping, customs, immigration, health, quarantine, environmental protection and security. The duplication of roles causes delays in shipping when it is subject to keying duplicated information through various forms. The burden of documentation on the shipping industry causes delays in cargo, increasing the costs involved (UNCTAD, 2008).

Django et al. (2010) used the World Bank Data on time spent in 126 different countries to move standard cargo. The authors found that delays involved in the cargo movement had huge impacts on developing countries especially while moving time-sensitive goods and perishables. Sofia and Anna (2009) highlight the issues arising due to lack of coordination between border agencies and government authorities involved in trade operations. Lack of coordination will lead to the flow of information on a specific cargo repeatedly causing strains on the information systems. Hence, increased physical inspection of cargo lead to prolonging the rate of cargo clearance.

Private parties are involved in different kinds of shipping according to the quantity and the nature of the cargo carried (Stopford, 2009). According to Sornn-Friese (2010), shipping companies employ a board of management, which often involves private

parties as representatives. Different business groups interact with each other to form a network of business connections in the movement of goods. A proposal submitted by Japan to the Facilitation Committee of IMO as a guideline for the Maritime Single Window categorizes transportation and transport service providers separately. Transportation involves the ship, whereas the transport service providers include the ship's agent and forwarders (IMO, 2019)

Freight forwarders form a business connection between the consignor and the carrier in a contract of affreightment as intermediaries. They are often regarded as NVOCC (non-vessel operating common carrier) or NVO (non-vessel operator) as they do not operate any vessels (Schramm, 2012). Bischof et al. (2002) found that traditional freight forwarders only conduct brokering operations and organize transportation of goods. However, freight forwarders have evolved from traditional freight forwarding.

Modern freight forwarders tend to provide services of goods transport in addition to the services of forwarding. The network of freight forwarders across the supply chain is often seen to have different business goals. Hence it becomes challenging to manage freight forwarders though they are instrumental to the expansion of global trade (Berrada, 2009).

Freight forwarders are regulated differently in various countries due to differences in legal systems. In the USA and the UK, the freight forwarding contract is referred to as an agency contract, whereas in France it is referred to as a commission contract. In many other civil law practicing countries such as Lithuania, it is regulated as a separate individual contract. Lawrence et al. (2008) mentioned that the institutional arrangements and the level of corruption and rule of law in a country are important factors which can affect the costs involved in a freight forwarding procedure. Also the Royal Decree 131/2019 has elaborated the ship agents' duties. The Royal Decree calls for the use of electronic means or the National Single Window for communication between the shipping agent and the maritime authorities (BOE, 2019).

Customs brokers assist importers/exporters in dealings with customs administrations in the customs clearance processes. The knowledge of customs procedures and level

of training, the brokers receive to provide services to the public decides the quality of the supply chain, as they provide all the documents related to goods and ships clearance in maritime trade. Customs brokers have become an essential stakeholder to the maritime supply chain as they assist the authorities to ensure compliance with customs rules and regulations (WCO, 2017).

According to the provisions of the Revised Kyoto Convention (RKC), the use of customs brokers should be made optional and must regulate according to free-market principles. However, considering national requirements, a country may apply rules and regulations to brokers to protect the interests of traders. The assistance of brokers' associations or other private organisations are employed here. (WCO, 2017, p. 34).

Furthermore, Standard 8.3 of the implementation guide to the RKC provides that “any trader who designates a third party to deal with customs administrations must have the same rights as the trader, who represent himself as direct communication with customs in clearance of cargo”. Article 10.6 of the World Trade Organizations Trade Facilitation Agreement (WTO TFA) calls for the transparent and objective process of issuing licenses to customs brokers. Hence, there is a need to look into different standards and conventions available internationally that influence maritime trade facilitation.

2.3 International Standards on Trade Facilitation

Trade facilitation measures practised by individual countries might not give the full benefit of trade facilitation. The countries must cooperate and collaborate on an international level by implementing the universally accepted instruments. International organizations such as the World Customs Organization (WCO), the United Nations Conference on Trade and Development (UNCTAD), the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT), the International Maritime Organization (IMO) and the World Trade Organization (WTO) have developed a large number of instruments and guidelines on trade facilitation (National Board of Trade, 2008).

2.3.1 United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT)

UN/CEFACT is an intergovernmental body of the United Nations Economic Commission for Europe (UNECE) and operates as the focal point for the UN Economic and Social Council with regard to trade facilitation. The organisation represents its members who are from individual countries, intergovernmental organisations and business stakeholders. The principles of UN CEFACT focus on facilitating trade through simplified and harmonised procedures and information exchange. The organisation has developed 34 trade facilitation requirements, which are regularly reviewed and updated according to the requirements of the global shipping industry. One important recommendation by UN CEFACT is Recommendation No. 1 on the UN Layout Key for Trade Documents and Recommendation 25, on the Use of the UN for the Electronic Data Interchange for Administration, Commerce and Transport Standard. The UN Economic and Social Council has endorsed both of these recommendations (UNECE, 2019).

2.3.2 United Nations Conference on Trade and Development

The United Nations Conference on Trade and Development (UNCTAD) formed in 1964 aims at addressing the concerns of developing nations with regard to the international market. Developing countries were apprehensive about the disparity between them and the developed countries. The United Nations specialised agency, was established to provide a forum where developing countries could discuss problems relating to their economic development. In addition to this, UNCTAD assists developing nations in identifying the obstacles faced in trade facilitation and help them to rectify those through facilitation measures. UNCTAD conducts workshops at regional and national levels to build capacity and provide technical assistance to the countries. The professional program is for the Secretariat and the members of National Trade Facilitation (WTO, 2019).

2.3.3 World Customs Organization

The World Customs Organization (WCO) is an intergovernmental body established in 195, which aims to achieve efficiency and effectiveness in customs administrations. The organisation represents Customs administrations from 183 countries around the world, which represent 98% of global trade. Today the organisation stands as the only international body which has the competence to deal with matters faced in the customs administrations. The key aspects of WCO are harmonisation and simplification, security and enforcement, partnership and corporation, modernisation and capacity building, which are vital for securing the International Trade supply chain. WCO has developed Customs Brokers Guidelines to assist its members in regulating the custom brokers. The guidelines specify the licensing criteria, application for license, licensing fees, verification of the applicant, issuance of license, business registration, and the denial of license and appeal (WCO, 2013; 2017).

2.3.4 International Maritime Organization (IMO)

The main objective of the International Maritime Organization (IMO) is to regulate the international shipping industry, taking into consideration the safety, environmental concerns, technical cooperation, and efficiency as well as the disputes arising between stakeholders. The organisation's most comprehensive instrument on trade facilitation is the Convention on Facilitation of International Maritime Traffic (FAL Convention) (IMO, 2019).

2.3.4.1 Convention on Facilitation of International Maritime Traffic

The Convention on Facilitation of International Maritime Traffic (FAL Convention) was developed to avoid unnecessary delays in the maritime traffic. Since the adoption of the FAL convention, it has been rectified by 123 contracting States, which represent 94.93% of the world's total tonnage (GISIS, 2019). The purpose of the Convention is to "facilitate maritime transport by reducing paperwork, simplifying formalities, documentary requirements and procedures associated with the arrival, stay, and departure of ships engaged on international voyages". To achieve the objective, the

convention's focus shall be on the simplification, unification, standardisation and harmonisation of trade-related procedures.

The 15 articles of the Convention mention the roles and obligations of the member states. For instance, according to Article 1 of the convention, parties to the convention must be committed to *“adopt, in accordance with the provisions of the convention and its annex, all appropriate measures to facilitate and expedite international maritime traffic and to prevent unnecessary delays to ships and persons and property on board”*. The contracting parties to the convention must cooperate in forming measures to facilitate the arrival, stay and departure of ships and these measures are applied by ensuring the highest degree of uniformity in the formal documentary requirements and all procedural matters (Article 2 and 3). The parties to the convention are not restricted to apply the necessary measures to *“preserve public morality, order and security or to prevent the introduction or spread of disease or pest affecting public health, animals and plants.”* (Article 5) (IMO, 2017, pp. 1,2).

The annexes of the Convention present the standards and, recommended practices on the requirements of the convention and the detailed procedures. The implementation of the FAL Convention will help to advance a country's protective capacities while strengthening its trade facilitation (IMO DOCS, 2016).

2.4 World Trade Organization

The World Trade Organization (WTO) is the only international organisation which is specialised to deal with the rules and regulations of international trade. The most prominent instrument developed by the institution is the Trade facilitation agreement which is adopted by a majority of the trading nations. The ultimate goal of the organisation is ensuring the smoothness of trade. As of now, the organisation has 146 member states which represent 98% of global trade, while 22 countries are negotiating for membership. WTO members enjoy lower trade barriers amongst themselves. Therefore, developing countries will have the opportunity to enter the markets of developed countries with lower tariff rates (WTO, 2019).

2.4.1 WTO Trade Facilitation Agreement

The Trade Facilitation Agreement (TFA) is the first multilateral trade agreement concluded under the WTO umbrella. The TFA in its provisions encourages the acceleration of the movement, release and clearance of cargo. The Agreement calls for the practical cooperation between the customs and other authorities related to trade facilitation. WTO believes that the TFA will assist the member states in achieving transparency in their supply chains, which will help to reach the global supply chains and also reduce the obstacles faced by corruption (WTO, 2019). The full implementation of the TFA will help to reduce the total costs involved in trade by more than 14% for low-income countries. WTO estimated the benefit of TFA at a value of 1 trillion USD (UNCTAD, 2017). Upon ratification of the convention, developing countries should have a national trade facilitation committee in place according to Article 23.2 of the convention. The entry into force of the TFA is an important milestone as it creates an international framework for the reduction of costs involved in trade. With the TFA, the legal uncertainty of trade will be reduced, and it will help to improve the cooperation between the private parties and public authorities. Most importantly the coordination issues in the border agencies will be reduced with the uniform principles (WTO, 2015). In the view of ICC (2017), the implementation of TFA will reap gains for developing and developed countries from the increase in their export gains as the agreement will accelerate the delivery of time-sensitive goods. ICC also predicted that the implementation of TFA would attract more foreign direct investments and reduce corruption. The additional costs of implementing the agreement will be a burden for developing countries. In addressing these issues, there are donor countries which will assist countries in need to offset the costs through aids. In addition to this, technical assistance from WCO will also help developing countries to build their capacity.

2.4.1.1 Single Window Concept for Facilitation of Trade Across Borders

UNECE (United Nations Economic Commission for Europe) defined the Single Window Concepts as *“a facility that allows parties involved in trade to lodge standardised information and documents with a single entry point to fulfil all import, export and transit-related regulatory requirements. If information is electronic, then individual data elements should only be submitted once”* (UNECE, 2004). Single Window Concepts are known for assisting traders in declaring the necessary information on export and import through a single platform that connects various agencies involved in the issuance of permits, licenses and other trade certificates. The use of single window concept enables the authorities to simplify and achieve coordination among them (UNECE, 2004). According to UNECE (2016) Single Window Systems were initially developed by the United Nations Centre for Trade Facilitation and Electronic Business (UN CEFAC).

Several scholars have highlighted the benefit of Single Window Concept. For instance, Iwori (2019) preached that using the single window system for the clearance of cargo reduces the time and costs involved in trade. The author also stipulated that in Nigeria the use of single window systems has improved the performance of border clearance. In support of this statement Gerard (2013) also defined national single window systems as a concept that is vital to improve the performance of border clearance.

The single window is a tool for integrating the governmental system and process to enhance facilitation in business communication by developing governmental operations. For instance, trade document submission through single window will save the governmental resources which were previously utilized to submit in each unit separately. These resources are essential for building up the coordination needed to redistribute and validate accurate information to all the necessary agencies. Hence cooperation among the governmental agencies improves highly (UN ESCAP, 2015).

Single window facilities make the enhancement for control and enforcement purposes. The payment requirement in the system is made convenient. Moreover, up to date information on regulations and duty tariffs will increase the compliance rate by

reducing un-intentional errors. Saved resources can also be employed for the intelligence purposes or areas of great concern (Trpcevska, 2015). Traders benefit from the single window by enjoying faster and more accurate services and saving time of theirs spent on keying the documents and fees to different agencies. This will result in speeding up their supply chain. The improved predictability and transparency tackles corruption in both private and public sector. More importantly administrative cost is reduced when one platform is used to obtain the new regulations and current trade rules (WTO, 2015).

In the Maldivian context, the Ministry of Economic Development (MED) has developed a roadmap to implement a National Single Window (NSW) project in the country. The main objectives of the roadmap developed with the assistance of the Asian Development Bank (ADB) are to improve the collaboration between the public and private sector, which will assist in enabling government organizations and private parties to operate more efficiently. Among the different sections of NSW roadmap, data harmonization remains as the most prominent area which aims to solve the redundancies in data collection that increases costs for stakeholders involved in the maritime trade. The roadmap mentions that by standardizing documentary requirements, the costs involved in trade will be reduced (ADB, 2018).

However, there has been no specific study done on the standard of the current documentary requirements involved in maritime transport, which are essential for the trade facilitation. Therefore, this research focuses on analyzing the documentary requirements related to clearance of ships in Maldives and the legislative and administrative procedures on regulating the private parties involved in maritime transport. The current practices in the Maldives and international standards set by the IMO FAL Convention, WTO Trade Facilitation Agreement, and guidelines of both WCO and UNCTAD will be studied. The findings of the research will give an insight into harmonizing data requirements according to the proposed NSW roadmap of the country.

Chapter 3

The Context of the Maldives and International Standards

This chapter will present an overview of the Maldives Customs Administration and, the regulations which administers stakeholders involved in ship clearance, focusing in detail on the documentary requirements related to ship clearance. It then presents a comparative analysis of current practices and documentary requirements against International standards.

3.1 The Maldives Customs Administration

The Maldives Customs Service (MCS) works as a separate legal entity that is governed by the Maldives Customs Act, 2011. The Organization is responsible for carrying out the necessary measures related to the export and import of goods to and from the Maldives. It is also mandated to manage the collection of revenue.

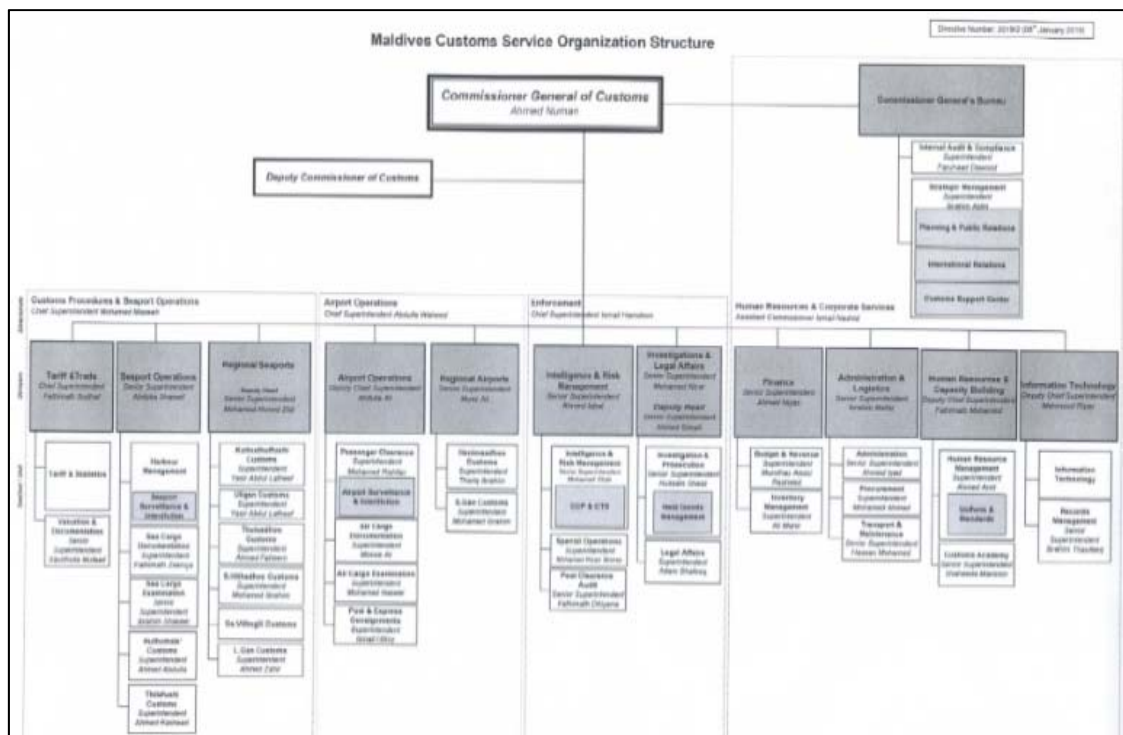


Figure 1. Organizational Structure of Maldives Customs Service.

The work of the organization is managed by four divisions: Customs Procedures & Seaport Operations, Airport Operations, Enforcement and Human Resources and Corporate Services. The work related to port operations is carried out under the

supervision of the Seaport operations division, which includes, harbour management, seaport surveillance and interdiction, sea cargo documentation, and sea cargo examination. Intelligence and risk management is carried out by the enforcement division (MCS, 2019). MCS has been a member of WCO since 1995, and the government is currently in the process of obtaining accession to RKC (MED, 2015, p. 33).

Every vessel travelling to The Maldives is required to submit its Estimated Time of Arrival (ETA) 12 hours before arrival in Maldivian waters. According to Article 62 of Maldives Customs General regulation, ships with an appointed agent before arrival must submit their ETA to MCS through the “vessel arrival information” form (attached in Annex 1) along with passengers and crew list (MCS, 2019, p. 54).

All the vessels that enter the Maldivian maritime zonal waters will be under the control of MCS. When a vessel is under the control of MCS, access to the vessel to load or unloads any cargo or access to personnel is restricted. A party seeking any such access shall obtain a permit from MCS according to its Article 52 (MCS, 2019, p. 52). Provisions of MCS general regulation states the requirements for all the vessels in its Inward clearance and Outward clearance.

3.2 Inward Clearance

As mentioned in Article 56 of the Maldives Customs Service General Regulation, within 12 hours of arrival at a Maldivian port, every vessel must obtain Inward Clearance from MCS. It is an obligation for the vessel owner, master or the vessel agent to inform MCS of its arrival at port (Article 56& 58). It strictly prohibits any person to board or leave the vessel, or load or unload anything from the vessel before receiving an inward clearance (Article 62).

The documents required for obtaining the inward clearance for vessels are as follows as per Article 66.

1. Original of the Last port clearance (outward)
2. Passenger and Crew list endorsed by Immigration and Port Health
3. Crew Declaration Form
4. Crew Personal effects list

5. Ship stores list
6. Bond stores list
7. Transit Cargo or Cargo Manifest copy
8. Port of Call list
9. MNDF security clearance copy
10. General declaration sample in appendix 11 endorsed by Maldives Ports Limited/ Airports Company and Maldives Immigration.
11. If the vessel is getting clearance, the blueprint of the ship design and specification as mentioned in appendix 10 of the regulation (Article 66).

Paragraph (b) of Article 66 further elaborates that MCS should issue the inward clearance once the vessels have received clearance from Port Health, Maldives National Defence Force and Maldives Immigration. The clearance is conducted in collaboration as boarding the agencies to the ship at the same time (MCS, 2019, pp. 52-66). The Inward clearance is issued after the agent or master of the vessel pays the clearance fee as mentioned in appendix 36 of the MCS regulation.

According to the provisions of the IMO FAL Convention, the documents required for issuing the inwards clearance should be limited to the documents as follows;

1. General Declaration form
2. Cargo declaration form
3. Ships stores declaration
4. Crews effects declaration
5. Crew list
6. Passenger list
7. Dangerous goods manifest
8. The document required under the universal postal convention for mail
9. Maritime declaration of health
10. Security-related information as required under SOLAS regulation XI-/9.2.2
11. Advance electronic cargo information for customs risk assessment purposes
12. Advanced notification form for waste delivery to port reception facilities when communicated to the organization

The parties to the Convention shall not charge the vessels or agents any fee related to the submission of the documents for the clearance of ships including the electronic submission (Standard 2.1.1) (IMO, 2017, p. 12).

Note: the standardise formats of the sample FAL forms are attached in the appendix A

3.2.1 General Declaration Form

The General Declaration Form is developed as per the recommendations of UN EDIFACT for the forms used by Customs. This is in accordance with the IMO compendium on facilitation and electronic business developed in 2001. The compendium contains documentary requirements, information flows and electronic business. It was revised in 2015 following a partnership agreement between IMO and WCO on 22nd December 2015. WCO has standardized forms used for ship clearance purposes by customs administration according to the agreement with IMO. IMO FAL form 1 in appendix 1 of the annex of the FAL Convention gives the standard format for the general declaration.

According to Article 66 para, 10 of the MCS general regulation, a General declaration must be submitted for inward clearance. The format of this form is in annex 11 of the MCS regulation and a sample is attached in appendix B. MCS has adopted the recommended EDIFACT format for general regulation (MCS, 2019, p. 55).

3.2.2 Cargo Declaration Form

Recommended Practice 2.3.1 of the IMO FAL Convention Section 2 of the Annex states that upon the arrival of a ship, the information and documents required for a cargo declaration form should be limited to the following.

1. Name and IMO Number of the Ship
2. Flag State of the Ship
3. Name of Master
4. Voyage Number
5. Port of Loading
6. Port where report is made

7. Freight Container identification, where appropriate, marks and numbers; number and kind of packages; quantity and description of goods shipped under multimodal transport documents or the Harmonized System (HS) Code.
8. transport document numbers for cargo to be discharged at the port in question.
9. Ports at which cargo remaining on board will be discharged.
10. Original ports of shipment in respect of goods shipped under multimodal transport documents or through bills of lading.

In addition to this, the Standard 2.3 requires the vessels to submit the information on the dangerous cargo separate from the other cargo (IMO, 2017, p. 13).

3.3.4 Ships Store Declaration

The Standard 2.4 under the Contents and purpose of Documents for Arrival, Stay and departure of Ship as mentioned in the Annex of the FAL Convention mentions that it should be a basic document which is required on either departure or arrival of the ship by authorities. Standard 2.4.1 further explains that the Ship Store Declaration must be signed by the master of the vessel or an officer who is authorized by the master. IMO FAL form 3 (attached in annex 3) of appendix 1 contains the standard format of the ship store declaration form. MCS defines this form as “Ship store list” (IMO, 2017, p. 15).

According to Article 66 para 5 of the MCS General Regulations, “ship stores list”. There is no standard format or data requirement stipulated or attached to the annex of this regulation (MCS, 2019). Therefore, various shipping agent or ship owners submit various formats of this list under different names for the ship's clearance.

3.3.5 Crew list

According to the standard 2.6 of section 2 of annex 1 in the FAL Convention, the crew list should be the basic documentary requirement for the public authority. This form contains the number and works of the crew (IMO, 2017, p. 15).

According to Article 66, paragraph 2 of MCS general regulation, a crew/passenger list is required to be submitted for inward clearance. This article stipulates that the crew/

passenger list must contain the information as per annex 3 of the regulation. Annex 4 lists data requirements included in the form. There is no standard format form of the crew/passenger list. Unlike the IMO FAL 5, the crew/passenger list of annex 4 in MCS requires to separate the number of Maldivian and foreign nationality crew members. Moreover, the master is required to seal or sign the list. However, this requirement is not in practice. It is seen from the documents submitted to customs with varied formats of crew/passenger lists, sealed and signed by the shipping agent (MCS, 2019, pp. 55,56).

The IMO FAL form 6 Passenger list is not examined in detail as the study focuses on merchant ships. The MCS regulation does not give a different form for this requirement. The passenger list is documented using the Crew passenger list form for the passenger lines arriving in Maldives.

3.3.6 Crews effects declaration

Crews effects declaration is a basic document which collects information on the crew's personal effects which shall be required only at the time of arrival. As mentioned in the Standard 2.5.1 of the contents and purpose of documents for Arrival, stay, and departure of Ships in the Annex of the FAL Convention, the crew's effects declaration should be signed and dated by either the master or an officer authorized by the master. The standard allows public authorities to ask individual crew members for signature for verification (IMO, 2017, p. 15).

The MCS general regulation defines the crew effect declaration as the "crews' personal effects list" as a requirement under Article 66 para 4. There is neither a standard format nor an information requirement of the form stipulated. In practice, the vessels and agents submit the crews' personal effect list form to MCS with customized formats for their leniency (MCS, 2019, p. 55). Hence, there exist various formats, complicating the data elements in the system. Appendix B contain the forms used by MCS which carry different names and are ambiguous in nature for a new user.

3.3.7 Dangerous Cargo Manifest

The IMO FAL Form 7 for dangerous goods manifest is the standardized document proposed by the FAL Convention which necessitates the basic information required for dangerous goods. According to the standard 2.8.1 of the Annex of FAL Convention, the public authorities shall not require data elements more than those specified in the FAL Form 7 (IMO, 2017, p. 16). In Maldives, MCS has not adopted a form for reporting the dangerous cargo manifest separately for the inward clearance under the provision of Article 66 (MCS, 2019, pp. 56-57).

3.3.8 The document required under the universal postal convention for mail

According to Article 15 of the MCS general regulation, the items brought from vessels through courier or postal services can be taken to the post office. The packages will be allowed to be transferred to the Post Office by a staff member of the post office without removing the seals after the MCS officers check the packages and delivery orders. Currently, MCS does not require any document or form as mentioned in standard 2.1 of the Annex of FAL Convention (MCS, 2019, p. 40).

3.3.9 Maritime declaration of health

The Standard 2.10 of the Annex of FAL Convention states that the Maritime Declaration of Health shall be a basic document containing the data required by Port Health Authorities (IMO, 2017, p. 17). In Maldives, the work related to maritime declaration of Port Health falls under the mandate of Port Health Authority. According to Article 1 Port Health Work General Regulation, vessels travelling to Maldives must report to the Port Health Office not less than 24 hours before entering the waters of the country. The article further stipulates that every vessel should be allowed to enter Maldives only after completing the "Entry declaration of health" form (attached in the annex). In Addition, Articles 3 and 5 mention that access to and from the vessel will be restricted until the port health office issues a permit (HPA, 2010). The "Entry

declaration of health” form is not required by MCS while issuing inward clearance to vessels. Instead the crew lists submitted to MCS are required to be endorsed by the Port Health Authority which indicates that the vessel was inspected and issued a permit.

3.3.10 Security-related information as required under SOLAS regulation XI-/9.2.2

In the Maldives, MNDF has the mandate to collect the security-related information as required under SOLAS regulation XI/9.2.2. According to Article 6 of the Regulation on Firearms brought for the safety of vessels arriving at Maldives, every vessel which carries firearms or any weapon (restricted in Maldives) must obtain a permit from MNDF before entering the waters of the country. The vessels may assign a local agent who will be responsible for the acts of the vessel under the regulation and also obtain the necessary permits from MNDF. The local agent should register themselves according to the regulation. Vessels which enter Maldivian waters without appointing a local agent must declare all the weapons or firearms on board for safety purposes and are required to appoint a local agent (already registered at MNDF) within 48 hours. Article 20 mentions that MNDF has the authority to detain the vessel until a local agent is appointed (MNDS, 2018, pp. 3-7). The MNDF officers give clearance to the vessels after boarding and inspecting the vessels.

3.3.11 Advance electronic cargo information for customs risk assessment purposes.

Article 68 of MCS General Regulation defines advance clearance as issuing clearance to the vessels by MCS without boarding and inspecting the vessels. General Declaration Form (attached in Appendix as per MCS regulation), and Crew and Passengers list (attached in Appendix as per MCS regulation) must be endorsed by Maldives Immigration and Port Health Authority and the Last Port Clearance before the agent presents it to MCS. The Agents must submit the originals of the documents mentioned above not later than two hours after the vessels reaches a port in Maldives and also an advanced notification form for waste delivery to port reception facilities

when communicated to the organisation (MCS, 2019, pp. 57-59). However, the Maldives Port Authority currently does not have a waste delivery facility at its port.

3.3 Out ward Clearance

According to Standard 2.12 of the Annex of FAL Convention, public authorities must not require more than the following forms;

1. 5 Copies of General Declaration
2. 4 Copies of the Cargo Declaration
3. 3 Copies of the Ship Stores Declaration
4. 2 Copies of the Crew List
5. 2 Copies the Passenger List
6. 1 Copy of the Dangerous Goods Manifest (IMO, 2017, p. 18).

All the vessels departing from the Maldives must obtain an Outward clearance from MCS (Article 69). MCS issues outward clearance when the master of the vessel or the agent presents the following documents.

1. General Declaration
2. Crew and Passenger List (endorsed by Port Health and Immigration)
3. Original of the Security Clearance Form
4. Port Control Permit
5. If the vessel is issued a single voyage permit by Ministry of Transport a copy of that permit (MCS, 2019, p. 59).

3.4 Authorities Involved in Issuance of Permits Related to Trade

The Ministry of Economic Development (MED) and Maldives customs service (MCS) jointly regulate the trade-related matters in Maldives. There is a restriction of some commodities levied on import and export to Maldives. Also, to develop certain economic activities in Maldives, traders are given the concession and duty exemption under trade law. For both of these, traders are required to take either permits or certificates/licenses which are submitted along with the goods declaration submitted to the Customs in addition to the commercial documents.

Though the MED predominantly regulates trade in Maldives, there are several other Government Agencies involved in issuing permits and licenses. The issuance of these permits is according with regulations R-34/2012 of MED under the trade law 31/79. According to Article 6 of this regulation, the traders must submit the permit to MCS for the goods which require permit under a law or a regulation for import, export or re-export. (AGO, 1979; 2012).

3.4.1 Pork and Liquor Permit issued by the Ministry of Economic Development

A trader seeking to import Alcoholic products, pork or pork products should get a License to import Pork and Liquor Products issued by MED according to Liquor and Pork Regulation 49/2011. The regulation aims to control the distribution of pork and liquor in the Maldives by MED. Permits are issued only to tourist resorts and safaris registered for tourism, duty-free shops, bonded warehouses and shipping agents of cruise liners. While applying for the permit, applicants must submit originals of the registration certificates issued by government authorities except for bonded warehouses and duty-free shops. The applicant may apply online or in-person at MED, and the permits are issued on the same day. An application for, (original or attested copy) and the registration certificate issued to the applicant is to be submitted and a fee of Maldivian Rufiyaa 500 is to be paid at the time of application. The applicant should also have a Trade Permit for sale of import of goods and a Trade Permit for sale of Pork and Liquor Products issued by MED before applying to License to import Pork and Liquor Products. After receiving the License to import Pork and Liquor Products from MED, while clearing the goods at the Port, the original of the permit should be presented to Customs (MED, 2019; AGO, 2011).

3.4.2 Permit to Import Chemical

According to the Import Prohibition Act, 4/7, the clearance of any items classified as dangerous Chemicals, Acids produced from such Chemicals, and different kinds of poisons is required permission from the Ministry of Defence and National Security (MDNS). The trader should submit the application form for a Chemical permit to MDNS before the arrival of the goods. In addition to this, the applicant must submit a

material data safety sheet if asked by MDNS. For some chemicals which have to be monitored by other Authorities, the applicant must submit a no objection letter issued by those authorities. For instance, for pesticides and fertiliser monitored by the ministry of fisheries and agriculture, the letter issued issued by them. Moreover, it is the Ministry of Environment who issues an ozone-depleting substances issuance. There is no specific regulation developed under the Import Prohibition Act for the issuance of chemical permit (AGO, 1975).

3.4.3 Permit to import Fog Signal and Fireworks

Regarding permits for import of fog signals and fireworks, the applicant must submit the request to MNDS 48 hours before the arrival of the ships and cargo to MNDF, according to Regulation 42/2012. The issuance of permits for import of fog signals is subject to approved quantity of fog signals by Ministry of Transport and Communication. The applicant is required to submit this document as a supporting document to the MNDS. Upon submission MNDS issues the permit accordingly. The applicant must also submit the commercial invoice and packing list of the shipment with the application form (MNDS, 2012).

3.4.4 Permit to Import Flora

Traders and individuals must get a permit from the Ministry of Fisheries Marine Resources and Agriculture (MoFMRA) to import animals, birds and agricultural products. According to the Flora Protection Law 12/2011, any individual or trader seeking a permit for import or export of floral products should get a permit from MOFAMR. The Act harmonises the phytosanitary standards according to the International Plant Protection Convention (IPPC). Therefore, the quarantine process and issuance of the permit are according to the Convention.

To obtain a permit to import Flora to the Maldives, the applicant must complete the “Live plants and Plants Parts Import” Application form. For individuals, a copy of their National id card is required, while for businesses a copy of their registration has to be submitted. While importing flora to Maldives, the importer must inform the Phytosanitary Officer assigned by MOFAMR as soon as the shipment arrives at port. Along with the Flora Import Permit, the importer must present a phytosanitary

certificate issued from the National Plant Protection Organization (NPPO) of the country to the Quarantine unit of MOFAMR at the time of clearance.

The Phytosanitary Officers release the shipments after an inspection. If the officers have reasonable grounds to believe that the importer has violated the requirements of the Flora Protection Act or found that the plants are subject to quarantine, quarantine officers will hold the shipment at the quarantine station in the Ports (AGO, Plants Protection Act, 2011).

3.4.5 Permit to Import Birds

According to the Birds Import Regulation (2012), parties that import birds and bird eggs require must have a permit issued by MOFAMR. The regulation exempts birds which are imported by individuals as pets and eggs imported for human consumption. However, if birds and eggs are imported for other purposes, such as poultry, the importer should apply for a Permit to Import birds. Before importing, the importer must have an import permit certificate issued by MOFAMR. The importer should also inform the quarantine department about the shipment at least one day before it arrives at the Port. At the time of clearance, the importer must present a State Veterinary Certificate issued from the country of export to the Animal Quarantine Unit of MOFAMR established at the port. The quarantine officers will check the validity of the Bird Import Permit and also inspect the shipments. If the officers discover that the birds have any disease or the permits are forged/invalid, the shipment will be held at the quarantine unit for four weeks (MOFMRA, 2012).

3.4.6 Pesticide and fertilisers

The issuance of chemicals import permits falls under the authority of the Ministry of National Defence and Security (MNDF), but before applying for the permit, the importer must get a no objection letter to import the Pesticide Fertilizers from MOFAMR. To get this letter the importer must submit an application form along with the Product label, Material Safety Data Sheet (MSDS) and fact sheet if importing a new pesticide or fertiliser (MOFAMR, 2019). Depending on this letter, which is regarded by MNDF as quota sheet, they issue the chemical permit to them.

3.4.7 Permit to Import Medicine

According to the Medicine Regulation of the Maldives Food and Drug Authority (MFDA), to Import Doctoral Medicine to the Maldives, the importers should have a permit to Import Medicine. The issuance of permits is restricted to registered Warehouses and Pharmacies under MFDA. The importer must submit Vaccine Biological batch release certificates; product analysis certificates along with the application form when applying for the permit. MFDA issues permits only for the medicines listed on the “approved drug list” and the “approved alternative medicine list”. The permit to Import Medicine is valid for two years, and MFDA publishes updated authorised importers of medicine on its website. The importer must present the permit to the Port Health Unit and MCS at the time of clearance (MFDA, 2014).

3.5 Regulations on private Stakeholders

3.5.1 Shipping Agents

According to Article 222 of the MCS General Regulation, a vessel may only appoint an agent who is already registered and who has obtained an agent license from MCS. The duties and obligations of the customs agents are defined under Article 225 of the MCS general regulation as follows:

1. Do the necessary work as an agent to represent a vessel arriving at Maldives according to the Maldives Customs Act and Maldives Customs general regulation.
2. Report to MCS immediately any illegal activity carried out by a passenger or crew member. Additionally, if the agent knows a passenger or crew member is trying to conduct any illegal activity, it must be brought to the attention of MCS.
3. Assist the work of MCS to eliminate the import and export of goods illegally.
4. Perform the necessary duties mentioned in Chapter 2 of the MCS general regulation.
5. Pay any fines imposed by MCS on the vessels which are represented by the agent.

6. Arrange the transport, food and accommodation of customs officers who travel to issue inward and outward clearance to vessels and who arrive at places other than the official ports.
7. Assist the survey conducted by MCS to check the bunker oil capacity of the vessel.
8. Make the necessary arrangements to assist MCS to inspect the loading and unloading of vessels that arrive at places other than the official ports.
9. If the representatives of the agent who is issued a pass to board the vessels loses their pass, damages the pass, resigns from their job or dies, the agent must report it to MCS no later than three days.
10. While communicating with MCS, the shipping agent must not deliberately try to conduct any fraud.
11. Agents must not do any act which might affect the relationship between MCS and parties that get services from MCS related to vessels.

Shipping agents' licenses issued by MCS are valid for one year (article 228). MCS renews the license for shipping agents if they receive more than 50 points according to the MCS guideline on customs broker assessment (Article 29) (MCS, 2019).

The minimum standards for shipping agents, developed by UNCTAD secretariat to combat all means of maritime fraud, defines shipping agents as “any person (natural or legal) engaged on behalf of the owner, charterer or operator of a ship, or of the owner of the cargo, in providing shipping services” (2013, p. 3)

Article 3 of the standards mentions that a shipping agent will be considered as professionally qualified if the party has obtained experience by working at least three years with a qualified shipping agent. Also, the shipping agent must present a good standing and must have passed the professional examination conducted by the relevant national authority.

Article 4 of the standard mentions the financial qualifications of the shipping agent. The shipping agent must;

“1. Have financial resources adequate to its business evidenced by references from banks, financial institutes, auditors and reputable credit reference companies, to the satisfaction of the national authorities/professional associations; and

2. Have adequate liability insurance through an internationally recognized insurance company or mutual club to cover all professional liabilities.”

The shipping agents are required to perform their duties with integrity and, honesty, respecting all the national laws and regulations. They must also exercise due diligence to guard against any fraudulent practices which the trader might be involved in (Article 5) (UNCTAD, 2013, p. 5).

3.5.2 Customs Brokers

Article 205 MCS general regulation defines customs brokers as those parties who are registered at MCS as customs brokers to perform the necessary duties in the customs clearance process of cargo related to import or export. The article further stipulates that MCS will issue broker licenses only to those parties who have passed from the broker’s license exam conducted by the Centre for Customs and Excise Studies (CCES).

Upon passing the broker’s license exam, the parties may apply for the customs broker license through the Customs brokers license application form (attached in annex X). The form requires the company that applies for a license to mention the examination id of staff who have passed the broker license exam. In Maldives it is not restricted to civil servants to work as brokers. The duties and obligations of customs brokers are mentioned in Article 208 of MCS general regulation as follows;

1. Performing all the duties and obligations as a broker in the clearance of goods according to the Customs Act and regulations.
2. Ensuring the validity of the import and export-related documents before submitting to MCS.
3. Brokers should not send a person other than a person who has passed the Brokers examination to communicate with MCS regarding export and import.

4. The broker must report to MCS the necessary information about any illegal act that the owner of the cargo is involved in or has carried out.
5. Paying any charges (for any errors or mistakes in the documentation) that arise if MCS discovers an issue in the documentation during or after the clearance of goods.
6. If the representatives of the broker who was issued a pass to board the vessels loses their pass, damages the pass, resigns from their job or dies, the agent must report it to MCS no later than 3 days (MCS, 2019, pp. 125,128).

WCO Customs Brokers Guidelines highlights that the licensing requirements differ from one country to another, but the main reason for those requirements must focus on securing duties, taxes and, fees and to ensure the traders' compliance with customs regulations. It is restricted for a staff of customs to work as a customs broker according to the regulation. Moreover, the customs administration may set stringent requirements such as not allowing previous employees of the customs administration to work as a customs brokers until after a specified number of years from their resignation (WCO, 2017, pp. 5,6).

The guideline also specifies that customs brokers should provide a security deposit or financial guarantee to the customs administration according to the regulations. In the Maldives, the legislation does not specify a security deposit for customs brokers.

The licensing criteria are mentioned separately for individuals and businesses that want to become customs brokers. An individual may be qualified for a customs broker's license if the person;

1. *“meets the knowledge requirement and has passed the customs broker licensing examination with a grade of minimum specified percentage.*
2. *has two years of experience working for a licensed customs broker has sufficient financial resources to conduct business in a responsible manner.*
3. *Is not bankrupt has not been found guilty within the previous three years of any violation of any legislation relating to importation or exportation.*
4. *Has electronic transmission capability*

5. *Is eligible to meet or has met the country business registration requirements, including citizenship or residency where required*” (WCO, 2017, p. 11).

Custom broker licenses may be issued to companies or businesses:

1. *“if the corporation has at least one employee who meets the knowledge requirement and has passed the Customs broker examination with a grade of minimum specified percentage*
2. *if the corporation has sufficient financial resources to conduct business in a responsible manner,*
3. *if a majority of its directors are citizens or permanent residents of the country*
4. *if it is incorporated in the country*
5. *if none of its directors is bankrupt,*
6. *if none of its directors has been found guilty within the previous three years (or any other specified period) of any violation of any legislation relating to importation or exportation*
7. *has electronic transmission capability (where required) - Customs Broker Automated Systems should be able to interface with Customs/government systems”* (WCO, 2017, p. 12).

The WCO guidelines on customs brokers mention that the customs brokers may only act according to the agreement with the trader within the regulatory framework of the country. The obligations mentioned include:

1. *“to ensure compliance with Customs and other regulatory requirements*
2. *to advise their clients on various compliance requirements,*
3. *to take reasonable measures to follow ‘Know Your Customer’ (KYC) principles, including the verification of track record and identity of his client,*
4. *to exercise due diligence to ascertain the correctness of any information and not submit or procure or assist in the filing of any claim or of any document, known by the broker to be false,*
5. *to be liable (jointly and severally) for the payment of duties, taxes and other charges, based on the documentation provided by, on behalf of their clients,*

6. *not attempt to influence the conduct of any official concerning any matter pending consideration,*
7. *not allow his license, permit or name to be used by or for an unlicensed person (including a broker whose license or permit is under suspension), other than his own employees authorized to act for him, in the solicitation, promotion or performance of any Customs business or transaction,*
8. *not procure or attempt to procure directly or indirectly, information from Government records or other Government sources of any kind to which access is not granted by the proper authority*
9. *to maintain and preserve records relating to his representation for a specified period of time for Customs audit/inspection*
10. *to maintain high professional standards, transparency, efficiency, and business ethics*
11. *to discharge his duties with the utmost speed, efficiency, and integrity, ensuring a high level of service delivery standards*
12. *to cooperate with Customs and other government agencies in improving compliance*
13. *to meet all terms and conditions, mentioned in the contract between the Customs broker and the trader” (WCO, 2017, p. 12.13).*

CHAPTER 4

Discussion of Findings

The comparative analysis carried out in chapter 3 focused on the documentary requirements of the Maldives Customs Service related to issuing inward clearance and outward clearance to merchant ships. The findings revealed that documents required for inward clearance do not meet the requirements of the FAL Convention. The General declaration form is the only form that meets the requirements of the FAL Convention. Though the FAL Convention mandates use of a Cargo Declaration form, currently in Maldives there is no standardized form for that purpose. In Maldives a “store list” is required from the agents or vessels owners to declare the ship store. However, there is no standard form or data requirement mentioned by MCS. Thus, shipping agents and vessels owners submit the details of ship stores in different formats.

In the Maldives, ship clearance crew lists are also mandated as mentioned in the FAL Convention. However, there is no standard format available and the information required for by MCS is higher than that required under the FAL Convention. To declare the Crews effects, the FAL Convention prescribes a Crews effects declaration form. MCS requires vessels to submit a “crew personal effect list” which has no standard format mentioned in the regulations. For dangerous cargo, a manifest is required under FAL Convention, but in Maldives there is no form for reporting the dangerous cargo manifest. There is no document required by MCS for the items brought through courier or postal service. In practice, MCS allows officials of the post office to clear the items without removing their seals. Standard 2.10 of the Annex of FAL Convention obligates a Maritime declaration of health to be presented. In practice vessels do not present a form applying clearance. However, they are required to apply for an “Entry declaration of health” to the Port Health Authority, 24 hours before entering Maldivian waters. At the time of issuing clearance to a vessel, MCS officers ensure that vessels submit a crew list endorsed by the Port Health Authority.

Traders are required to share the security-related information required under SOLAS regulation XI-/9.2.2 to MNDF. Though there are strict measures to regulate the local agents who represent vessels, the clearance form issued to vessels is often handwritten by the MNDF officers (form attached in Annex X).

The current documentary requirements in the Maldives related to issuing clearance to ships involve complex documentation processes which do not harmonize with the requirements of the FAL Convention. As mentioned by UNCTAD (2018), the burden of documentation on the shipping industry will cause delays in cargo, increasing the costs involved.

As mentioned by Calatayud et al. (2016), in addition to standardizing the documents, Maldives can increase the visibility of its maritime supply chain by processing the information using electronic links across the stakeholders in the supply chain. Since the country is already moving towards an NSW, standardizing the documents will be very important while going for an electronic means for exchange of information. It will improve the connectivity, and visibility will assist the ports in accommodating the growing capacity of the industry with a very low margin (Woo, Pettit, & Beresford.; Panayides & Song, 2009).

Among the different sections of the NSW roadmap, data harmonization is the most prominent area which aims to solve the redundancies in data collection that increase costs for stakeholders involved in maritime trade (ADB, 2018). Therefore, to achieve this, the country needs to aim at standardizing the documents required in maritime trade up to international standards.

The research focused on the authorities involved in the issuance of permits related to trade and discovered that traders are required to deal with more than one authority to obtain a single permit. The process for these applications involves lot of paperwork. The effective implementation of the NSW will assist in solving the issues, and complicated procedures involved in issuance of permits related to trade. The single window concepts allow the traders to submit the necessary information on export and import through a single platform which connects various agencies involved in the

issuance of trade-related permits (UNECE, 2004, p. 22). Therefore, it enables traders to avoid unnecessary delays while the authorities achieve coordination among them.

According to UN ESCAP (2015) through the Single Window, trade document submission will save the governmental resources which previously was unutilized to submit in each unit separately. The utilization of these resources is essential in building up the coordination needed to redistribute and validate the information accurately to all the necessary agencies. Hence cooperation among the governmental agencies improves highly. To ensure the efficacy of trade procedures, the risk management requires a systemic data collection. (UN ESCAP, 2015).

From a trader's perspective, with an effective implementation of the NSW, they will enjoy faster and accurate services and save time spent on keying the documents and fees to different agencies. The use of one platform to obtain the new regulation and current trade rules will reduce administrative costs involved in trade transactions (WTO, 2015).

As mentioned by Butterfly (2003), trade facilitation deserves top priority in agenda-setting as it addresses a holistic approach to economy modelling by tackling issues in business, economic administrative, technical, political and technological aspects. Moreover, the World Bank statistics indicate that countries that have adopted effective measures of trade facilitation are increasingly gaining the benefits of economic development compared to those without these measures (Simeon, Freund, & Pham, 2010).

The research on regulations that administer the private sector includes the regulations focusing on custom brokers and shipping agents. The MCS general regulation defines the roles of shipping agents comprehensively as in the UNCTAD's voluntary guidelines on minimum standards for shipping agents. The MCS general regulation lacks provisions that mention the financial qualification of the shipping agents and does not require shipping agents to have adequate liability insurance as prescribed by UNCTAD.

In the Maldives customs broker licenses are issued to individuals who have completed a broker license exam. MCS general regulations define the roles of the customs brokers and also mentions the requirements for applicants when applying for broker license. However, MCS regulation does not require the applicant to present information about their financial conditions. Moreover, in Maldives it is not restricted for civil servants to work as brokers.

Customs administrations are advised not to permit any of their employees while employed to work for a customs broker. Moreover, the customs administration may set stringent requirements such as not allowing previous employees of customs administration to work as customs brokers until after a specified number of years from their resignation

The guideline also specifies that customs brokers should provide a security deposit or financial guarantee to the customs administration according to the regulations. In the Maldives, the legislation does not specify a security deposit for customs brokers. The Maldivian legislation does not specify the requirements for individuals and businesses separately.

Regulating the private parties involved in maritime trade is very important as the decisions of the different stakeholders, both government and private parties involved in the maritime trade, can significantly impact the performance of the maritime supply chain (Carlan, Sys, & Calatayud, 2018). Additionally, the knowledge of customs brokers and shipping agents on customs procedures and level of training they have received are very vital for the maritime supply chain, as they provide all the documents related to trade and also perform the necessary tasks to clear the cargo. Moreover, customs brokers and shipping agents are expected to assist the authorities to ensure compliance with customs rules and regulations (WCO, 2017).

Chapter 5

Conclusion and Recommendations

5.1 Conclusion

Trade facilitation deserves top priority in agenda-setting as it addresses a holistic approach to economy modelling by tackling issues in business, economic, administrative, technical, political and technological aspects. In addition, the decisions of the different stakeholders, both government and private parties involved in the maritime trade, can significantly impact the performance of the maritime supply chain. The delays and issues arising in the supply chain can be rectified by examining the roles of the different actors involved throughout the chain especially those who are involved in the movement and importation of cargo.

The motivation of this research was to study the challenges in ship clearance in the Maldives and to determine what could be improved. The analysis undertaken on the current documentary requirements related to ship clearance in Maldives revealed that current procedures in Maldives for issuing clearance to ships involve a complex documentation process. Moreover, the current documentary requirements are not harmonized with the standards of the FAL Convention. Among the forms required by MCS for issuing clearance, only the general declaration form meets the standards set by the FAL Convention. Other forms require more data than those mentioned in the FAL Convention, and some forms are not in place. The current practices lack a uniform standard for reporting to MCS.

The analysis of the issuance of trade-related permits in Maldives which falls into various organisations revealed duplication of roles and the involvement of much paperwork. These high documentary requirements are examples of nontariff barriers that hinder trade. Trade facilitation reforms trade practices by eliminating these barriers. Maldives should fasten its work on the Single Window implementation as it will help to remove the barriers and bring the agencies closer. It will assist in integrating the governmental system and process, enhancing facilitation in business communication by developing governmental operations. For instance, trade document

submission through single window will save governmental resources which were previously utilized to submit in each unit separately. The utilisation of these resources will assist in building up the coordination needed to redistribute and validate the information accurately to all the necessary agencies.

The analysis of regulations that administer the private stakeholders such as customs brokers and shipping agents that are mostly involved in the clearance of ships revealed that the licenses for both brokers and shipping agents are issued to those who pass from the examinations held by MCS. The applicant's criteria for shipping agents meet the guidelines of UNCTAD to a certain extent. However, the shipping agents in Maldives are not required to provide a financial guarantee and also are not subject have adequate liability insurance.

Another issue observed was though it is restricted for customs officials to work as brokers or shipping agents, there is no restriction preventing government officials from doing so. Therefore, it is essential to clearly define in the regulations to restrict government officials from working as brokers or shipping agents. Additionally, the customs may set stringent requirements for their previous employees to work as customs brokers only after a specified number of years from their resignation.

The current regulations do not make it mandatory for the brokers to provide a security deposit or any financial guarantee. The MCS regulations on customs brokers also lacks provisions which specify the requirements for individuals and businesses separately. The outdated legislature and cumbersome procedures involved in paper-based work is the primary reason for the fall of the Maldives in ranking of trading across borders in the Doing Business Index of the World Bank group. Moreover, illegal practices by the shipping agents were exposed by the port authority in Maldives.

The Maldives has already developed a National Single Window roadmap to eliminate barriers to trade facilitation and achieve the maximum benefit of a Single Window concept. It is essential to standardize and harmonize the documentary requirements and regulate the private stakeholders according to international standards and best practices. Without revising the current practices

and regulations related to ship clearance according to the international standards, the country may not benefit from the NSW as expected.

5.2 Recommendations

Therefore, it is highly recommended for the national authorities to;

- harmonize the documentary requirements involved in the clearance of ships as per the FAL Convention.
- Amend the provisions on MCS general regulations to obligate the brokers to present a financial guarantee.
- Restrict government officials from working as customs brokers or shipping agents.
- Initiate the process of adopting the FAL Convention while incorporating its requirements into ports and other agencies

5.2.1 Future Research

Future researches should focus more on the roles of both private and government stakeholders involved in the maritime supply chain to understand the challenges for trade facilitation. Additionally, the research may focus on the physical inspection process of cargo by border agencies and practices by both private and public stakeholders.

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Appendix A

(IMO FAL Forms)

GENERAL DECLARATION (IMO FAL Form 1)

		<input type="checkbox"/> Arrival	<input type="checkbox"/> Departure
1.1 Name and type of ship		1.2 IMO number	
1.3 Call sign		1.4 Voyage number	
2. Port of arrival/departure		3. Date and time of arrival/departure	
4. Flag State of ship	5. Name of master	6. Last port of call/Next port of call	
7. Certificate of registry (Port; date; number)		8. Name and contact details of ship's agent	
9. Gross tonnage	10. Net tonnage		
11. Brief particulars of voyage (previous and subsequent ports of call; underline where remaining cargo will be discharged)			
12. Brief description of the cargo			
13. Number of crew	14. Number of passengers	15. Remarks	
Attached documents (indicate number of copies)			
16. Cargo Declaration	17. Ship's Stores Declaration		
18. Crew List	19. Passenger List	20. The ship's requirements in terms of waste and residue reception facilities	
21. Crew's Effects Declaration (only on arrival)	22. Maritime Declaration of Health (only on arrival)		
23. Date and signature by master, authorized agent or officer			

For official use

CARGO DECLARATION
(IMO FAL Form 2)

		<div> <div></div> <div>Arrival</div> </div>	<div> <div></div> <div>Departure</div> </div>	<div> <div></div> <div>Page Number</div> </div>	
1.1 Name of ship		1.2 IMO number			
1.3 Voyage number		2. Port where report is made			
3. Flag State of ship		4. Name of master			
5. Port of loading/Port of discharge					
B/L No.	6. Marks and Numbers	7. Number and kind of packages; description of goods or, if available, the HS Code	8. Gross weight	9. Measurement	
	10. Date and signature by master, authorized agent or officer				

SHIP'S STORES DECLARATION
(IMO FAL Form 3)[illegible]

CREW'S EFFECTS DECLARATION
(IMO FAL Form 4)

Page Number

1.1 Name of ship			1.2 IMO number		
1.3 Call sign			1.4 Voyage number		
2. Flag State of ship					
3. No.	4. Family name	5. Given names	6. Rank or rating	7. Effects ineligible for relief from customs duties and taxes or subject to prohibitions or restrictions	8. Signature
9. Date and signature by master, authorized agent or officer					

CREW LIST

[illegible]


PASSENGER LIST
(IMO FAL Form 6)[illegible]

DANGEROUS GOODS MANIFEST
(IMO FAL Form 7)
(As required by SOLAS 74, chapter VII, regulations 4.2 and 7-2.2, MARPOL, Annex III, regulation 4.2 and chapter 5.4, paragraph 5.4.3.1 of the IMDG Code)

1.1 Name of ship		1.2 IMO number		1.3 Call sign						
1.4 Voyage number		2. Flag State of ship		3. Port of loading		4. Port of discharge				
5. Stowage Position	6. Reference Number	7. Marks & Numbers - Freight container identification No(s) - Vehicle registration No(s).	8. UN Number	9. Proper Shipping Name/(Technical Specifications)	10. Class/ (Subsidiary Risk(s))	11. Packing Group	12. Additional Information/Marine Pollutant/Flash point/etc.	13. Number and kind of packages	14. Mass (kg) or Volume (L)	15. Em
16. Shipping Agent										
16.1 Place and date										
Signature of Agent										

Appendix B

Forms Used by Maldives Customs Service

				MALDIVES CUSTOMS SERVICE REPUBLIC OF MALDIVES	
GENERAL DECLARATION					
This form must be filled in BLOCK LETTERS				<input type="checkbox"/> Arrival <input type="checkbox"/> Departure Ref:	
1. Name and description of ship		2. Port of Arrival/Departure		3. Date - time of Arrival/Departure	
4. Nationality of ship	5. Name of master		6. Port of arrival from/port of destination		
7. Certificate of registry (port; date; number)			8. Name and address of ship's agent		
9. Gross tonnage	10. Net tonnage				
11. Position of the ship in the port (berth or station)					
12. Brief particulars of voyage (previous and subsequent ports of call; underline where remaining cargo will be discharged)					
13. Brief particulars of the cargo					
14. Number of crew (incl. master)	15. Number of passengers		16. Remarks		
Attached documents (indicate number of copies)					
17. Cargo declaration		18. Ship's stores declaration			
19. Crew & Passenger list		20. Crew's effects declaration			
22. Ship's particulars		23. Security clearance form			
21. Date and signature by master, authorised agent or officer					
FOR OFFICIAL USE ONLY					
Maldives Ports Authority		Immigration & Emigration		Port Health	
Maldives Customs Service					

[COMPANY LETTERHEAD]

VESSEL ARRIVAL INFORMATION FORM

ARRIVAL NOTICE

Vessel Details

Vessel Name*	Call Sign*	IMO No.*
Registration No.*	Port of Registry*	Keel Laid (build year)*
Name of the Master	Vessel Flag*	Max Draft (Meters)
GT*	NT*	LOA (Meters)*
Agent Name*	Owner of the Vessel*	Arrival Draft (Meters)
Purpose of Visit*	Preferred Berth	Total Passengers
Voyage No.*	Total Crew	Bow Thruster
Vessel Type*	Agent Contact No. Mobile*	Agent Contact No. Tele/Fax*

Date / Time

Expected Arrival Date*	Time*	Last Port Port	Next Port
Expected Departure Date	Time	Port of Arrival	Port of Departure

Cargo Details

Total Cargo Tonnage	Dangerous Cargo		Tonnage	
Port of Discharge	Description	Loading Details		
No. of Containers	Cargo Weight Ton	Cargo to be loaded	Cargo Weight Tonnage	
	TEU	No. of Containers	TEU	

Crew and Passenger Valuation Form

Name _____		Flight No. / Vessel _____		Passenger/Crew Valuation Form Maldives Customs Service	
Address _____		Date of Arrival _____			
Passport No. _____		No of Items _____			
Contact No. _____		Currency _____			

Item No.	Description _____	Qty & Unit	
	Model _____	Declared value	
	Brand _____	Accepted value	
	Origin _____		

Item No.	Description _____	Qty & Unit	
	Model _____	Declared value	
	Brand _____	Accepted value	
	Origin _____		

Item No.	Description _____	Qty & Unit	
	Model _____	Declared value	
	Brand _____	Accepted value	
	Origin _____		

Item No.	Description _____	Qty & Unit	
	Model _____	Declared value	
	Brand _____	Accepted value	
	Origin _____		

Item No.	Description _____	Qty & Unit	
	Model _____	Declared value	
	Brand _____	Accepted value	
	Origin _____		

Item No.	Description _____	Qty & Unit	
	Model _____	Declared value	
	Brand _____	Accepted value	
	Origin _____		

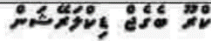
Item No.	Description _____	Qty & Unit	
	Model _____	Declared value	
	Brand _____	Accepted value	
	Origin _____		

For Customs Use		Passenger/Crew
Goods checked by (Name & Signature)	Bond Receipt No/Crew Dec Ref.	(Name & Signature)
1 _____	Supervised by (Name & Signature)	
2 _____		
Date: _____		Date: _____



(Company Name & Address)

Phone / هاتف
Fax / فاكس
Email / بريد إلكتروني
P.O.BOX / صندوق بري



CREW BAGGAGE DECLARATION

Full Name / اسم الكامل		Name of Vessel / اسم السفينة	
Designation / تسمية		Last Port / آخر ميناء	
Address / عنوان		Date of Departure / تاريخ المغادرة	
PPNo / رقم التسجيل		Port of Arrival / ميناء الوصول	
Phone No / رقم الهاتف		Date of Arrival / تاريخ الوصول	

#	QTY	Description (Model/Brand/Size/Weight Etc.)	Port of Loading	Port of Discharging	Declared value	For Customs use			For M.P.A use	
						Accepted Value	Gate P.No	Released Date	Weight (Kg)	CBM
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
11										
12										
13										
14										
15										
16										
17										
Total Pkgs / إجمالي الحزم			Total Value / إجمالي القيمة			Total CBM/KG / إجمالي الحجم والوزن				

I hereby declare that all information and particulars stated above are correct and true.

Crew's / طاقم السفينة

Sign / توقيع

Name / اسم

Date / تاريخ

Ships Master/ Agents approval for the Release.

Sign / توقيع

Name / اسم

Date / تاريخ

Stamp / ختم

Crew list No.:

رقم قائمة الطاقم